REMARKS

Favorable reconsideration of this application is respectfully requested in view of the following remarks.

No claims have been amended. Claims 30-33 have been canceled. Claims 2-10, 21-29, 35, 37 and 38 have been withdrawn. Thus, claims 1, 11-20, 34 and 36 are pending under consideration in the present application, of which claims 1, 11, 34 and 36 are independent.

With appreciation, it is noted that the Office Action indicates (see present Office Action, page 3, fifth paragraph) claims 12 and 14-19 as containing allowable subject matter.

Noted - Priority Document Received By USPTO

The indication (see present Office Action Summary, box 12(a)(1) as checked) that the certified copies of the priority documents have been received by the USPTO is noted with appreciation.

Noted - IDS Considered

The indication (see attachment to the Office Action mailed November 26, 2007) that the Information Disclosure Statement as filed on March 30, 2004 and references listed therein have been considered is noted with appreciation.

Noted - Drawings Approved

The indication (see present Office Action Summary, box 10(a) as checked) that the Drawings (submitted on March 30, 2004) have been approved is noted with appreciation.

Claim Rejection Under 35 U.S.C. §112

Claims 1, 11-20, 34 and 36 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. The Office Action

specifically states that specifications fails to disclose "in place of an arriving control packet to a processing unit" and "thereby preventing the processing unit from re-configuring a communication route of a spanning tree protocol" recited in claims 1, 11, 34 and 36.

A claim is enabled when one of ordinary skill in the art could make or use the claimed invention from the disclosure of the patent coupled with information known in the art without undue experimentation. (MPEP § 2164.01). It is respectfully submitted that such is the case here.

As an example, page 13, line 22 through page 14, line 5 of the Specification states:

> "According to such a control packet processing apparatus, <u>even if the transmission of a control packet is stopped</u> to update the software program of a transmitting side device, <u>the last control packet</u> received in a receiving side device can <u>be regularly transferred to the processing unit 107</u>. Since the supply of control packets to the processing unit 107 is continued thus, topology <u>re-configuration can be prevented</u>." (Underlining added for emphasis).

As another example, page 22, line 25 through page 23, line 8 of the Specification states:

> "Thus, <u>even if BPDU transmission/reception is not actually conducted</u> and the information of the latest BPDU storage buffer 414 is not updated yet, the BPDU transfer processing program 411 can extract <u>the BPDU stored in the latest BPDU storage buffer 414</u> and regularly <u>notify the STP protocol processing program 402 of the BPDU</u> by receiving a pseudo-BPDU receiving trigger. Accordingly, topology <u>re-configuration can be prevented</u> by the STP protocol processing program 402. (Underlining added for emphasis).

As another example, page 26, lines 16-21 of the Specification states:

> "Thus, <u>even in a state where any normal BPDU is not received</u> at all, <u>the BPDU stored in the latest BPDU storage buffer 414</u> is regularly <u>transferred</u> to the STP protocol processing program 402, which <u>prevents the topology re-configuration</u> by the STP protocol processing program 402. (Underlining added for emphasis).

As another example, page 31, lines 18-23 of the Specification states:

> "Thus, <u>even in a state where any normal BPDU is not received
> at all</u>, <u>the BPDU stored in the latest BPDU storage buffer 414</u> is
> regularly <u>transferred</u> to the STP protocol processing program 402, and
> accordingly topology <u>re-configuration</u> by the STP protocol processing
> program 402 <u>can be prevented</u>." (Underlining added for emphasis).

It is respectfully submitted that, in light of the exemplary disclosure cited
above, one of ordinary skill in the art would understand what is claimed by the
aforementioned recitations of claims 1, 11, 34 and 36 and would be able to make
and/or use the claimed invention. Accordingly, withdrawal of the rejection is
respectfully requested.

Claim Rejection Under 35 U.S.C. §102

Claims 1, 11, 13, 20, 34 and 36 were rejected under 35 U.S.C. §102(e) as
being anticipated by Hirst et al. (U.S. Patent No. 6,581,166, Hirst hereinafter).

<div align="center">

INDEPENDENT CLAIM 1

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As an example, independent claim 1 recites (among other things):

> autonomously transferring the control packet stored in the
> buffer device <u>in place of an arriving control packet</u> to a processing unit
> in a specific cycle when no control packet is received for a specific
> period, thereby <u>preventing the processing unit from re-configuring a
> communication route of a spanning tree protocol</u>. (Underlining added
> for emphasis).

As will be explained below, at least this feature of claim 1 is a distinction over
Hirst.

Hirst merely describes altering a packet routing table upon detection of a fault
through a heartbeat pinging without any discussion of transferring a stored packet in
place of an arriving packet to prevent re-configuration of a communication route. In
particular, the Abstract of Hirst states:

> "<u>Faults are detected</u> through the use of a <u>heartbeat pinging
> mechanism</u> to detect faults on the network itself and by periodic port
> integrity checks to detect port faults. The integrity of the non-default
> network and port are also periodically verified to assure effective fault

recovery. <u>Upon detection of a fault, a packet routing table</u> in the detecting computer <u>is altered</u> to set the detecting computer's default network to the previously non-default network." (Underlining added for emphasis).

Hence, the noted claim features, namely the features of "autonomously transferring the control packet stored in the buffer device in place of an arriving control packet to a processing unit in a specific cycle when no control packet is received for a specific period, thereby preventing the processing unit from re-configuring a communication route of a spanning tree protocol" are a distinction over Hirst.

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. In view of the distinction of claim 1 noted above, at least one claimed element is not present in Hirst. Hence, Hirst does not anticipate claim 1.

INDEPENDENT CLAIMS 11, 34 and 36

Independent claims 11, 34 and 36 incorporate features that correspond to those of claim 1 described above, and so at least similarly distinguish over Hirst. Hence, Hirst also does not anticipate claims 11, 34 and 36.

DEPENDENT CLAIMS

Claims 13 and 20 ultimately depend from claim 11, and so at least similarly distinguish over Hirst. Hence, Hirst also does not anticipate claims 13 and 20.

In view of the foregoing discussion, the rejection of claims 1, 11, 13, 20, 34 and 36 is improper. Accordingly, withdrawal of the rejection is respectfully requested.

Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 50-1290.

Respectfully submitted,

Dated: January 9, 2009

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